

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans, at 1:30 p.m. on January 30, 1997 in Room 423-S-of the State Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department  
Norman Furse, Revisor of Statutes  
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:

Carol Macdonald, Administrative Secretary, Kansas Dental Board  
Larry Froelich, Executive Director, State Board of Pharmacy  
James O'Connell, Secretary, Kansas Department of Health and Environment (KDHE)  
John Grace, President, Kansas Association of Homes and Services for the Aging  
William Rein, Director and Presiding Officer of KDHE's Administrative Appeals Section

Others attending: See Guest List (Exhibit 1)

Chairperson Mayans opened the meeting by introducing Carol Macdonald, Kansas Dental Board, who asked that the committee consider introducing two pieces of legislation which would (1) limit dental operations of nonlicensed persons; define certain dental procedures; list procedures which registered dental hygienists may perform, and specify courses of instruction required for non-licensed personnel; and (2) substantially changes the issuances of licenses and gives authority to the board to assess fines and require testing. After discussion, Representative Morrison moved, Representative Wells seconded, that these two proposals be introduced (see Exhibit 2).

Larry Froelich, State Board of Pharmacy, presented two proposals for introduction: (1) to increase the civil fine for violation of the uniformed controlled substance act or rules and regulations of the board; and (2) amends the controlled substances act. On motion of Representative Morrison, seconded by Representative Haley, the committee approved introduction of these two proposals (see Exhibits 3 and 4).

Meg Hensen, Director of Government Affairs, Kansas Medical Society, requested introduction of a bill relating to the use of drugs for treatment of obesity in order to give the Society more flexibility to regulate in alliance with current medical practices. Representative Morrison moved, Representative Welshimer seconded, that this bill be introduced (see Exhibit 5). Motion carried.

KDHE Secretary James O'Connell presented the following suggested bills for approval and introduction: (1) establish a state cancer registry; (2) remove sunsetted K.S.A. 65-4801 through 4822--which established the state certificate of need program for health facilities between 1976 and 1985; (3) allow sponsorship of continuing education of pathologists and audiologists; (4) allow sponsorship for continuing education of adult care home administrators; (5) allow sponsorship for continuing education of licensed dieticians; and (6) repeal KDHE's authority to develop rules and regulations for care of post-acute trauma head-injured persons. After discussion, Representative Morrison moved, seconded by Representative Powell, that all six proposals be approved for introduction. Then, Representative Haley moved, seconded by Representative Welshimer, that the committee approve the above proposals except for the cancer registry. A short discussion ensued and Secretary O'Connell stated the registry bill simply causes all entities involved in the care of care patients to report their cases to K.U. Medical Center, who will maintain the registry. If approved, the legislation will allow the federal grant request to move forward as time is of the essence. An oral vote on the substitute motion was taken, and the motion failed. Thereupon, the original motion to introduce all six proposals was acted on, and on voice vote, the motion carried (see Exhibits 6, 7, 8, 9, 10, and 11). Representative Wells requested that his "No" vote be recorded.

Chairperson Mayans introduced John Grace, President, Kansas Association of Homes and Services for the Aging, who presented the association's views on the administration and operations of nursing care facilities and offer suggestions for improving care (see Exhibit 12). Chairperson Mayans asked why there are

CONTINUATION PAGE

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S of the State Capitol, at 1:30 p.m., on January 30, 1997.

continuing cases of abuse and exploitation in light of the changes made in 1987 and additional requirements established in 1995. Mr. Grace replied that it is because human beings deliver care--that staffing is always the number one issue in providing good care. Chairperson Mayans thanked Mr. Grace for his thoughtful presentation.

William Rein, Director and Presiding Officer of the KDHE Administrative Appeals Section, presented an overview of the appeals process (see testimony, Exhibit 13). Chairperson Mayans stated he had been somewhat disconcerted to have received a telephone call from a KDHE staff member inquiring as to what would be asked of Mr. Rein. He stated that his legislative work was public and there was no intent to offend anyone. Then there was discussion about the number of cases appealed to the Secretary and the number of times the hearing officer had been overruled. Mr. Rein responded that, as a guess, in his 4-year tenure as an appeals officer, perhaps 20-25% had been appealed. The Secretary does have authority to overrule a decision, based on his review of the factors involved. Representative Powell asked Mr. Rein if he could support legislation to remove the hearing officers and administrative judges and place all of them in a separate judicial agency or placed as a part of the Department of Administration. Mr. Rein responded that he believed the present agency alignment offered some advantages and that KDHE is capable of carrying out both legislative and administrative duties. Chairperson Mayans expressed gratitude to Mr. Rein for taking time to appear before the committee.

The meeting was adjourned at 2:45 p.m.

The next meeting is scheduled for February 4, 1997.

HOUSE COMMITTEE ON HEALTH  
AND HUMAN SERVICES COMMITTEE  
GUEST LIST  
JANUARY 30, 1997

NAME	REPRESENTING
Joseph L. Koell	KDHE
Gerald Block	"
Pat Maben	"
Carol McDonald	Kansas dental board
Bill Rein	KDHE
Cindy Lash	Post Audit
John Grove	KAESIA
Fran Walden	KDOA
DITZEL	KAHSA
Jane Ford	KHA
Harrie Ann Brown	KHA
Rich Puthier	Hearta Midwest
Michelle A. Smith	ATTORNEY GENERAL'S OFFICE
LARRY FROELICH	Board of Pharmacy
Wen Henson	KMS
Myron Dunavan	Std Long Term Care Ombudsman
George Habel	KCOA
Dorel Casseel	SWBT
Susan Baker	Hein + Weir

HOUSE COMMITTEE ON HEALTH  
AND HUMAN SERVICES COMMITTEE  
GUEST LIST  
JANUARY 30, 1997

NAME	REPRESENTING
John Peterson	Ks Governmental Consultancy
Nicole Johnson	legislative Intern
Vicki Allen	Ks Health Care Assn.
Susan Briggs	Topeka Ind. Living Res. Ctr.
Steve [unclear]	KDHE
Sandy Strand	Ks Advocates for Better Care
Jie Huang	DOB
J. McNeill	KDHE
Pete Cypstein	Sunt
Ann Koci	SPS
[unclear]	KDHE
Barbara Denevion	KDHE



BILL GRAVES  
GOVERNOR

BOARD OF DENTAL EXAMINERS

KANSAS DENTAL BOARD  
BUSINESS OFFICE  
3601 SW 29TH STREET, S-134  
TOPEKA, KANSAS 66614-2062  
TELEPHONE NO. (913) 273-0780

January 30, 1997

Chairman Mayans and Members of the Committee

I am Carol Macdonald, Administrative Secretary for the Kansas Dental Board.

The Board has two bills to introduce today.

The first bill would place into statutes, KAR 71-1-16, 71-1-17 and 71-3-3, regulations concerning the practice of dentistry.

The second bill, which is still in the Revisor's office, would make substantial changes in KSA 65-1436, the section involving issue of a license, and proceedings or actions against a license. It will include authority to assess fines to recover board costs, to require testing in cases of return to practice after a lengthy time of non-practice, and provision for confidentiality of complaints and reports in cases which are under investigation.

HOUSE HEALTH/HUMAN SERVICES

Attachment 2-1  
1 - 30 - 97

DEC 26 1996

Kansas Dental Board

PROPOSED BILL NO. \_\_\_\_\_

By

AN ACT concerning dentistry; relating to the dental practices act; concerning the practice of dental hygienists; definitions; amending K.S.A. 1996 Supp. 65-1423, 65-1444 and 65-1456 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1996 Supp. 65-1423 is hereby amended to read as follows: 65-1423. Nothing in this act shall apply to the following practices, acts and operations:

(a) To the practice of a person licensed to practice medicine and surgery under the laws of this state, unless such person practices dentistry as a specialty; or

(b) to the performance by a licensed nurse of a task as part of the administration of an anaesthetic for a dental operation under the direct supervision of a licensed dentist or person licensed to practice medicine and surgery so long as the anaesthetic given under the direct supervision of a licensed dentist is consistent with the anaesthetic the dentist is authorized to administer under K.S.A. 65-1444 and amendments thereto and consistent with subsection (a) of K.S.A. 65-1162 and amendments thereto and subsection (e) of K.S.A. 65-1163 and amendments thereto;

(c) to the giving by a registered nurse anesthetist of an anaesthetic for a dental operation in an interdependent role as a member of a physician or dentist directed health care team;

(d) the practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States army, navy, air force, marines, public health service, coast guard or veterans' bureau; or

(e) the practice of dentistry by a licensed dentist of other states or countries at meetings of the Kansas state dental

association or components thereof, or other like dental organizations approved by the board, while appearing as clinicians;

(f) to the filling of prescriptions of a licensed and registered dentist as hereinafter provided by any person or persons, association, corporation or other entity, for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for natural teeth, provided that such person or persons, associations, corporation or other entity, shall not solicit or advertise, directly or indirectly by mail, card, newspaper, pamphlet, radio or otherwise, to the general public to construct, reproduce or repair prosthetic dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth;

(g) to the use of roentgen or x-ray machines or other rays for making radiograms or similar records, of dental or oral tissues under the supervision of a licensed dentist or physician except that such service shall not be advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that such person has, leases, owns or operates a roentgen or x-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity, or administering treatment thereto for any disease thereof;

(h) except as hereinafter limited to the performance of any dental service of any kind by any person who is not licensed under this act, if such service is performed under the supervision of a dentist licensed under this act at the office of such licensed dentist except that such nonlicensed person shall not be allowed to perform or attempt to perform the following dental operations or services:

(1) Any and all removal of or addition to the hard or soft tissue of the oral cavity;

(2) any and all diagnosis of or prescription for treatment for disease, pain, deformity, deficiency, injury or physical

condition of the human teeth or jaws, or adjacent structure;

(3) any and all correction of malformation of teeth or of the jaws;

(4) any and all administration of general or local anaesthesia of any nature in connection with a dental operation; or

(5) a prophylaxis.

(i) As used in this section:

(1) "Removal of or addition to the hard or soft tissue of the oral cavity" means: (A) A surgical or cutting procedure on hard or soft tissues; (B) the grafting of hard or soft tissues; (C) the final placement or intraoral adjustment of a fixed crown or fixed bridge; and (D) root planing or the smoothing of roughened root surfaces.

(2) "Diagnosis of or prescription for treatment for disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure" means: (A) A comprehensive examination; (B) diagnosis and treatment planning; and (C) the prescription of a drug, medication or work authorization.

(3) "Correction of malformation of teeth or the jaws" means surgery, cutting or any other irreversible procedure.

(4) "General or local anesthesia of any nature in connection with a dental operation" means any general anaesthetic and any local anaesthetic whether block or infiltration but shall not include the administration and monitoring of the analgesic use of nitrous oxide or oxygen, or both.

Sec. 2. K.S.A. 1996 Supp. 65-1444 is hereby amended to read as follows: 65-1444. (a) A dentist shall have the right to prescribe drugs or medicine, perform such surgical operations, administer analgesia, local anaesthetics and use such appliances as may be necessary to the proper practice of dentistry. Dentists may be authorized to administer intravenous sedation and general anaesthetics subject to rules and regulations concerning qualifications of such dentists as may be adopted by the board.



Dentists who are determined by the board to have been regularly engaged in the practice of intravenous sedation or general anaesthesia in a competent manner for the three years immediately prior to January 1, 1994, shall have met the education and training requirements for such practice, but such person shall be subject to all other rules and regulations concerning intravenous sedation and general anaesthetic anaesthesia.

(b) A dentist may utilize an assistant not licensed by the board in the administration and monitoring of nitrous oxide or oxygen, or both, if that person has satisfactorily completed a course of instruction in those functions which has been approved by the board.

(c) (1) The course of instruction shall include a minimum of six hours of instruction at a teaching institution accredited by the American dental association.

(2) The course of instruction shall include satisfactory completion of courses which offer both didactic and clinical instruction in: (A) Theory of pain control; (B) anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and complications.

(3) Certification in cardiac pulmonary resuscitation shall be required in all cases.

Sec. 3. K.S.A. 1996 Supp. 65-1456 is hereby amended to read as follows: 65-1456. (a) The board may suspend or revoke the license, license certificate and renewal certificate of any registered and licensed dentist who shall permit any dental hygienist operating under such dentist's supervision to perform any operation other than that permitted under the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory thereof, and may suspend or revoke the license of any hygienist found guilty of performing any operation other than those permitted under article 14 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory thereof. No license or certificate of any dentist or dental hygienist shall be suspended or revoked in any administrative proceedings without first

complying with the notice and hearing requirements of the Kansas administrative procedure act.

(b) The practice of dental hygiene shall include those educational, preventive, and therapeutic procedures which result in the removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci. Included among those educational, preventive and therapeutic procedures are the instruction of the patient as to daily personal care, protecting the teeth from dental caries, the scaling and polishing of the crown surfaces and the planing of the root surfaces, in addition to the curettage of those soft tissues lining the free gingiva to the depth of the gingival sulcus and such additional educational, preventive and therapeutic procedures as the board may establish by rules and regulations.

(c) Subject to such prohibitions, limitations and conditions as the board may prescribe by rules and regulations, any licensed dental hygienist may practice dental hygiene and may also perform such dental service as may be performed by a dental assistant under the provisions of K.S.A. 65-1423 and amendments thereto.

(d) Except as otherwise provided in this section, the practice of dental hygiene shall be performed under the direct or indirect supervision of a licensed dentist at the office of such licensed dentist. The board may designate by rules and regulations the procedures which may be performed by a dental hygienist under direct supervision and the procedures which may be performed under the indirect supervision of a licensed dentist. As used in this section, "indirect supervision" means that the dentist is in the dental office, authorizes the procedures and remains in the dental office while the procedures are being performed and "direct supervision" means that the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure and before dismissal of the patient evaluates the performance.

(e) The practice of dental hygiene may be performed at an

adult care home, hospital long-term care unit, state institution, local health department or indigent health care clinic on a resident of a facility, client or patient thereof so long as:

(1) A licensed dentist has delegated the performance of the service, task or procedure;

(2) the dental hygienist is under the supervision and responsibility of the dentist;

(3) either the supervising dentist is personally present or the services, tasks and procedures are limited to the cleaning of teeth, education and preventive care;

(4) the supervising dentist examines the patient at the time the dental hygiene procedure is performed or has examined the patient during the 12 calendar months preceding performance of the procedure;

(5) nothing in this subsection (e) shall be construed to prevent a dental hygienist from providing dental education in a school setting; and

(6) the provisions of this subsection (e) shall expire on July 1, 1998.

(f) The board may issue a permit to a licensed dental hygienist to provide dental screening as an employee of the state of Kansas, or any subdivision thereof, at any public institution or facility under the supervision of the governing body of such public institution or facility under such terms and conditions as the board may reasonably establish in such permit. Such permit shall be for a period of one year and shall be subject to renewal annually at the time the license for dental hygiene is renewed.

(g) In addition to the duties specifically mentioned in subsection (b) of K.S.A. 65-1456, and amendments thereto, any duly licensed and registered dental hygienist may:

(1) Give fluoride treatments as a prophylactic measure, as defined by the United States public health service and as recommended for use in dentistry;

(2) remove overhanging restoration margins and periodontal surgery materials by hand scaling instruments; and

(3) administer local block and infiltration anaesthesia and nitrous oxide. (A) The administration of local anaesthesia shall be performed only under the direct supervision of a licensed dentist at the office of the licensed dentist. (B) Each dental hygienist who administers local anaesthesia shall have completed courses of instruction in local anaesthesia and nitrous oxide which have been approved by the board.

(h) (1) The courses of instruction required in subsection (g)(3)(B) of K.S.A. 65-1456, and amendments thereto, shall provide a minimum of 12 hours of instruction at a teaching institution accredited by the American dental association.

(2) The courses of instruction shall include courses which provide both didactic and clinical instruction in: (A) Theory of pain control; (B) anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and complications.

(3) Certification in cardiac pulmonary resuscitation shall be required in all cases.

Sec. 4. K.S.A. 1996 Supp. 65-1423, 65-1444 and 65-1456 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

PROPOSED BILL NO. \_\_\_\_\_

By

AN ACT concerning the uniform controlled substances act; substances included in schedule IV; amending K.S.A. 1996 Supp. 65-4111 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1996 Supp. 65-4111 is hereby amended to read as follows: 65-4111. (a) The controlled substances listed in this section are included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Alprazolam.....2882
- (2) Barbital.....2145
- (3) Bromazepam.....2748
- (4) Camazepam.....2749
- (5) Carisoprodol.....
- ~~(5)~~ (6) Chloral betaine.....2460
- ~~(6)~~ (7) Chloral hydrate.....2465
- ~~(7)~~ (8) Chlordiazepoxide.....2744
- ~~(8)~~ (9) Clobazam.....2751
- ~~(9)~~ (10) Clonazepam.....2737
- ~~(10)~~ (11) Clorazepate.....2768
- ~~(11)~~ (12) Clotiazepam.....2752
- ~~(12)~~ (13) Cloxazolam.....2753
- ~~(13)~~ (14) Delorazepam.....2754

<del>(14)</del> (15)	Diazepam.....	2765
<del>(15)</del> (16)	Estazolam.....	2756
<del>(16)</del> (17)	Ethchlorvynol.....	2540
<del>(17)</del> (18)	Ethinamate.....	2545
<del>(18)</del> (19)	Ethyl loflazepate.....	2758
<del>(19)</del> (20)	Fludiazepam.....	2759
<del>(20)</del> (21)	Flunitrazepam.....	2763
<del>(21)</del> (22)	Flurazepam.....	2767
<del>(22)</del> (23)	Halazepam.....	2762
<del>(23)</del> (24)	Haloxazolam.....	2771
<del>(24)</del> (25)	Ketazolam.....	2772
<del>(25)</del> (26)	Loprazolam.....	2773
<del>(26)</del> (27)	Lorazepam.....	2885
<del>(27)</del> (28)	Lormetazepam.....	2774
<del>(28)</del> (29)	Mebutamate.....	2800
<del>(29)</del> (30)	Medazepam.....	2836
<del>(30)</del> (31)	Meprobamate.....	2820
<del>(31)</del> (32)	Methohexital.....	2264
<del>(32)</del> (33)	Methylphenobarbital (mephobarbital).....	2250
<del>(33)</del> (34)	Midazolam.....	2884
<del>(34)</del> (35)	Nimetazepam.....	2837
<del>(35)</del> (36)	Nitrazepam.....	2834
<del>(36)</del> (37)	Nordiazepam.....	2838
<del>(37)</del> (38)	Oxazepam.....	2835
<del>(38)</del> (39)	Oxazolam.....	2839
<del>(39)</del> (40)	Paraldehyde.....	2585
<del>(40)</del> (41)	Petrichloral.....	2591
<del>(41)</del> (42)	Phenobarbital.....	2285
<del>(42)</del> (43)	Pinazepam.....	2883
<del>(43)</del> (44)	Prazepam.....	2764
<del>(44)</del> (45)	Quazepam.....	2881
<del>(45)</del> (46)	Temazepam.....	2925
<del>(46)</del> (47)	Tetrazepam.....	2886
<del>(47)</del> (48)	Triazolam.....	2887
<del>(48)</del> (49)	Zolpidem.....	2783

(c) Any material, compound, mixture, or preparation which contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible. The provisions of this subsection (c) shall expire on the date fenfluramine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 United States code 812; 21 code of federal regulations 1308.14).

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Cathine ((+)-norpseudoephedrine).....1230
- (2) Diethylpropion.....1610
- (3) Fencamfamin.....1760
- (4) Fenproporex.....1575
- (5) Mazindol.....1605
- (6) Mefenorex.....1580
- (7) Pemoline (including organometallic complexes and chelates thereof).....1530
- (8) Phentermine.....1640

~~The provisions of this subsection (d)(8) shall expire on the date phentermine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 United States code 812; 21 code of federal regulations 1308.14).~~

- (9) Pipradrol.....1750
- (10) SPA((-)-1-dimethylamino-1,2-diphenylethane)...1635

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which

contains any quantity of the following, including salts thereof:

- (1) Butorphanol.....
- (2) Pentazocine.....9709
- (3) Tramadol.....

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.....9167
- (2) Dextropropoxyphene  
(alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).....9278

(g) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

(h) The board may except by rule and regulation any compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Sec. 2. K.S.A. 1996 Supp. 65-4111 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.



PROPOSED BILL NO. \_\_\_\_\_

By

AN ACT concerning the state board of pharmacy; civil fines; amending K.S.A. 1996 Supp. 65-1658 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1996 Supp. 65-1658 is hereby amended to read as follows: 65-1658. The state board of pharmacy, in addition to any other penalty prescribed under the pharmacy act of the state of Kansas, may assess a civil fine, after notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against any licensee or registrant under subsections (a), (c), (d) and (e) of K.S.A. 65-1627 and amendments thereto for violation of the pharmacy act of the state of Kansas or rules and regulations of the state board of pharmacy adopted under the pharmacy act of the state of Kansas or for violation of the uniform controlled substances act or rules and regulations of the state board of pharmacy adopted under the uniform controlled substances act, in an amount not to exceed ~~\$500~~ \$5000 for each violation. All fines assessed and collected under this section shall be remitted to the state treasurer. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit such amount to the state general fund.

Sec. 2. K.S.A. 1996 Supp. 65-1658 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE HEALTH/HUMAN SERVICES

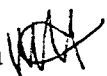
Attachment 4  
1 - 30 - 97



KANSAS MEDICAL SOCIETY

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January 30, 1997

To: House Health and Human Services Committee  
From: Meg Henson   
Director of Government Affairs  
Subject: Bill Request - Treatment of Obesity

The Kansas Medical Society appreciates the opportunity to request introduction of legislation relating to the use of drugs for the treatment of obesity.

Current law gives the Kansas board of healing arts the authority to promulgate rules and regulations governing the short-term treatment of obesity with certain classes of controlled substances. When this law was originally enacted in the mid-1980s, it was consistent with medical practices. Since then, physicians' understanding of and treatment of obesity have changed. The language KMS is proposing would give the board more flexibility to regulate in accordance with current medical practices.

I would be happy to answer any questions on this issue. Thank you for your consideration.

HOUSE HEALTH/HUMAN SERVICES

Attachment 5-1

1 - 30 -97

8. Authority of board to regulate the practice of medicine, review of board's decisions examined. *Valas v. Kansas Bd. of Healing Arts*, 248 K. 589, 593, 808 P.2d 1355 (1991).

9. Cited in opinion holding that 17-2708 of professional corporation law does not authorize medical practice by general corporation. *Early Detection Center, Inc. v. Wilson*, 248 K. 869, 877, 811 P.2d 860 (1991).

**65-2837a.** Restrictions on prescribing, ordering, dispensing, administering, selling, supplying or giving certain amphetamine or sympathomimetic amine controlled substances; unprofessional conduct. (a) It shall be unlawful for any person licensed to practice medicine and surgery to prescribe, order, dispense, administer, sell, supply or give any amphetamine or sympathomimetic amine designated in schedule II, III or IV under the uniform controlled substances act, except as provided in this section. Failure to comply with this section shall constitute unprofessional conduct under K.S.A. 65-2837 and amendments thereto.

(b) When any licensee prescribes, orders, dispenses, administers, sells, supplies or gives any amphetamine or sympathomimetic amine designated in schedule II, III or IV under the uniform controlled substances act, the patient's medical record shall adequately document and the prescription order shall indicate in the licensee's own handwriting, the purpose for which the drug is being given. Such purpose shall be restricted to one or more of the following:

- (1) The treatment of narcolepsy.
- (2) The treatment of drug-induced brain dysfunction.
- (3) The treatment of hyperkinesis.
- (4) The differential diagnostic psychiatric evaluation of depression.
- (5) The treatment of depression shown by adequate medical records and documentation to be unresponsive to other forms of treatment.
- (6) The clinical investigation of the effects of such drugs or compounds, in which case, before the investigation is begun, the licensee shall, in addition to other requirements of applicable laws, apply for and obtain approval of the investigation from the board of healing arts.
- (7) ~~The short-term treatment of obesity with schedule III and IV amphetamines or sympathomimetic amines, as may be defined by rules and regulations adopted by the board of healing arts.~~
- (8) The treatment of any other disorder or disease for which such drugs or compounds have been found to be safe and effective by

competent scientific research which findings have been generally accepted by the scientific community, in which case, before prescribing, ordering, dispensing, administering, selling, supplying or giving the drug or compound for a particular condition, the licensee shall obtain a determination from the board of healing arts that the drug or compound can be used for that particular condition.

History: L. 1984, ch. 237, § 1; July 1.

Research and Practice Aids:

Physicians and Surgeons — 5(4).

C.J.S. Physicians, Surgeons and Other Health-Care Providers §§ 26, 27.

Attorney General's Opinions:

Healing arts; restrictions on prescribing controlled substances; uniform controlled substances act; registration requirements. 85-22.

KMS

KANSAS MEDICAL SOCIETY

Meg Henson

Director of Government Affairs

controlled substances

October 15, 1996

\_\_\_\_\_ Bill No. \_\_\_\_\_

By: \_\_\_\_\_

AN ACT establishing a cancer registry in the state of Kansas and providing for rules and regulations for the operation thereof.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act:

(a) "Confidential data" means any data which permits the identification of individuals.

(b) "Health care provider" means a person licensed to practice medicine and surgery, a hospital as defined in K.S.A. §65-425 and amendments thereto, any individual providing health care services or a pathology laboratory.

(c) "Secretary" means the secretary of the department of health and environment.

Sec. 2. (a) The secretary is hereby authorized to collect data pertaining to all cancers occurring in Kansas into a registry which shall be the cancer registry for the state of Kansas. The secretary shall adopt rules and regulations which use the most efficient, least intrusive means for collecting cancer data consistent with ensuring the quality, timeliness, completeness and confidentiality of the cancer registry. The rules and regulations shall specify who shall report, the data elements to be reported, timeliness of reporting and format for collecting and transmitting data to the registry.

(b) Hospitals, providers of cancer screening, diagnostic or therapeutic services, and pathology laboratories may be required by rule and regulation to report information regarding all persons identified with cancer to the cancer registry.

(c) Reporting by persons licensed to practice medicine or surgery and other individuals providing health care services shall be limited to responding to requests for information regarding persons with cancer previously identified by other means.

Sec. 3. Uses of registry data which are not confidential in nature include, but are not limited to:

(a) The production of statistical data which outline the frequency,

distribution, severity at diagnosis, treatment and survival for each type of cancer;

(b) the design and implementation of cancer screening programs which have been demonstrated to decrease cancer mortality;

(c) assessing the cancer risk in the Kansas population;

(d) identifying previously unrecognized risk factors and causes of cancer;

(e) monitoring the potential health impact of environmental exposures;

(f) monitoring health care access and utilization and effectiveness of services for the prevention and treatment of cancer; and

(g) quantifying costs associated with cancer care.

Sec. 4. The information contained on the cancer registry shall not be subject to the provisions of the Kansas open records act. The secretary shall ensure that the confidentiality of any data collected which might be used to identify an individual with cancer or a health care provider is maintained. Storage of cancer data shall be in a manner which will protect all information which uniquely identifies individuals.

Sec. 5. Confidential data shall be securely locked and used only for the following purposes:

(a) Ensuring the quality and completeness of the registry data.

(b) Investigating the nature and cause of abnormal clusterings of cancer.

(c) Offering through the personal physician, to persons with cancer, access to cancer diagnostics and treatments not available except through clinical trials. As long as such trials are conducted with the informed, written consent of the cancer patient, the confidential data is approved for release by the secretary for the purpose of such clinical trials and the clinicals trials are approved by the clinical entity.

(d) Releasing data back to the institution or individual which reported cases as long as such release includes only those cases previously reported by the requesting institution or individual.

(e) As part of an exchange agreement with another state, confidential data collected on a resident of another state may be released to the cancer registry of that person's state of residence if that state has confidentiality requirements that provide assurance of protection of confidentiality equivalent to that provided by Kansas under this act.

(f) Releasing information upon consent, in writing, of the person who is

the subject of the information, or if such person is under 18 years of age, by such person's parent or guardian.

Sec. 6. The secretary shall designate a panel, including at least one physician licensed to practice medicine in Kansas and the registry director, which shall establish policies for release of nonconfidential data and shall review requests for the confidential registry data. No restrictions are placed on release of data which are statistical in nature.

Sec. 7. Any health care provider, whether a person or institution, who reports cancer information to the registry in good faith and without malice, in accordance with the requirements of this statute, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed in an action resulting from such report. Notwithstanding K.S.A. 60-427 and amendments thereto, there shall be no privilege preventing the furnishing of such information or reports as required by this act by any health care provider. Nothing in this section shall be construed to apply to the unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
BILL BRIEF

TITLE: Cancer Registry

I. Purpose/Reason for Proposed Legislation

The purpose of the cancer registry is to provide health data related to cancer for the state of Kansas. The registry contains basic information related to the occurrence of all cancers in the state, thereby, providing data needed for a) in investigation of abnormal clusterings of cancer; b) decreasing cancer mortality through preventive screening; c) eliminating or reducing known cancer risk factors; d) identifying previously unrecognized risk factors/causes of cancer; e) monitoring the potential health impact of environmental exposure; f) monitoring health care access and utilization of services for the prevention and treatment of cancer; g) quantifying costs associated with cancer care. The usefulness of the cancer registry for these purposes is directly related to the quality and completeness of the registry data.

The cancer registry is currently collecting data under KAR 28-1-4. Although the Secretary operates under broad authority to collect cancer data; this authority does not ensure the following:

1. Immunity for persons reporting;
2. Reporting by health care providers;
3. Use of confidential data for disease investigation and treatment (e.g., offering patients through their physician, access to cancer treatments not available except through clinical trials).

Public Law 102-515 requires state enabling legislation in order for a state to continue to receive the federal monies which account for approximately 75% of registry operating funds. This is necessitated to meet federal requirements to receive funds for a cancer registry.

The establishment of a cancer registry is consistent with the Division's mission, goals and objectives. Specifically, the Division is committed to developing data and information capacity for assessment, policy analysis, and program decision-making.

II. Bill Summary

The proposed legislation would:

- 1) authorize the Secretary of KDHE to require the collection of data related to cancer from hospitals, health care provider, and pathology laboratories;
- 2) authorize the establishment of regulations designating reporting

- requirements (including which providers would report);
- 3) grant immunity from liability for those reporting,
  - 4) protect the confidentiality of registry data; and
  - 5) authorize use of confidential data for limited purposes.

### III. Legislative History

The bill was introduced as part of the Governor's legislative recommendations in the 1996 session. While there was no opposition to the contents or intent of this bill as presented, an amendment proposing that information related to abortion be added to the data collected and reported to the registry was added. Subsequently, the bill died in committee.

### IV. Anticipated Outcomes Resulting from the Passage of Proposed Legislation.

The legislation is consistent with achieving the Department's goals related to core public health functions of assessment and assurance by improving the quality of the data contained in the cancer registry to near 100% capture of case occurrence. Quality of data would meet state needs for investigation of cancer occurrence in Kansas. The bill would also bring Kansas into compliance with the federal law that authorizes the national cancer registry program.

Regulations would exempt clinical practitioners from routine reporting. Practitioners would be asked to provide information only on those persons with cancer previously identified and for whom hospital cancer data was not available. Pathology laboratories would be required to submit copies of all cancer tissue results to the registry. Effectiveness of hospital plus pathology laboratory reporting has been demonstrated in other states (e.g. Minnesota).

### V. Impact on Other Agencies or KDHE Bureaus

The data being reported and the methods for reporting would not be changed; the only change would be that data collection and reporting which is now being conducted under regulatory authority of the Secretary would be conducted under statutory requirement.



VI. Fiscal Impact:

	FY 1998	FY 1999	FY 2000
Salaries and Wages By Classifications			
Contractual Services (list items)	465,896	465,896	465,896.
Commodities (list items)			
Capital Outlay (list items)			
Aid to Local Units of Government			
:			
TOTAL EXPENDITURES	465,896	465,896	465,896

Detailed Computation of Revenue Impact  
(increase or decrease) and Funds Affected:

Failure to enact the enabling legislation could result in the loss of \$340,716.00 in federal funds, because of federal grant conditions aimed at assuring statutory authority to establish and operate a statewide cancer registry.

Other KDHE Organization Units Affected:

Without accurate and complete reporting of cancer data, KDHE will be unable to accurately measure impact of the Breast and Cervical Cancer screening program, nor will the agency be able to conduct cancer cluster investigations with the level of accuracy needed to project reliable incidence. The ability to design and implement correctly focused early detection and other programs will be impeded without a long term, comprehensive cancer registry service.

October 15, 19\_\_

\_\_\_\_ Bill No. \_\_\_\_

BY: \_\_\_\_\_

AN ACT repealing K.S.A. 65-4801, 65-4802, 65-4803, 65-4804, 65-4805, 65-4806, 65-48-08, 65-4809, 65-4811, 65-4815, 65-4816, 65-4817, 65-4818, 65-4819, 65-4820, 65-4821 and 65-4822 relating to the certificate of need program.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-4801, 65-4802, 65-4803, 65-4804, 65-4805, 65-4806, 65-48-08, 65-4809, 65-4811, 65-4815, 65-4816, 65-4817, 65-4818, 65-4819, 65-4820, 65-4821 and 65-4822 are hereby repealed.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
BILL BRIEF

TITLE: Repeal of K.S.A. 65-4801 et seq.  
Certificate of Need Program

I. Purpose/Reason for Proposed Legislation

The proposed bill would repeal the provisions of K.S.A. 65-4801 through K.S.A. 65-4822. These statutes implemented the state certificate of need program for health facilities between 1976 and 1985. Although K.S.A. 65-4822 included a "sunset" provision which was effective July 1, 1985, the statutes remain in the statute books.

II. Bill Summary

The bill would officially repeal the referenced statutes which have not be in effect since 1985.

III. Legislative History

The referenced statutes have not been enforceable since July 1, 1985, which was the expiration date of K.S.A. 65-4801 through 65-4821.

IV. Anticipated Outcomes Resulting from Passage of Proposed Legislation

Since the statutes were "sunset" in 1985, there would be no significant outcome related to passage of this legislation. However, outdated laws would be removed from the statute books. On occasion, BACC staff still receive a few inquiries from out of state health care providers seeking clarification if Kansas still has a certificate of need law.

V. Impact on Other Agencies or KDHE Bureaus

There would be no significant impact on other state agencies or KDHE bureaus as a result of bill passage.

VI. Fiscal Impact

There would be no fiscal impact related to passage of this bill.

October 16, 1996

BY: \_\_\_\_\_ BILL NUMBER \_\_\_\_\_

An act concerning the department of health and environment; licensed speech language pathologists and audiologists; amending K.S.A. 65-6501 and 65-6512 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-6501 is hereby amended to read as follows: 65-6501. Definitions. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) "Secretary" means the secretary of health and environment.

(b) "Speech-language pathology" means the application of principles, methods and procedures related to the development and disorders of human communication. Disorders include any and all conditions, whether of organic or nonorganic origin, that impede the normal process of human communication including disorders and related disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition-communication, and oral pharyngeal or laryngeal sensorimotor competencies, or both. Speech-language pathology does not mean diagnosis or treatment of medical conditions as defined by K.S.A. 65-2869 and amendments thereto.

(c) "Practice of speech-language pathology" means:

(1) Rendering or offering to render to individuals or groups of individuals who have or are suspected of having disorders of communication, any

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service in speech-language pathology including prevention, identification, evaluation, consultation, habilitation and rehabilitation;

(2) determining the need for personal augmentative communication systems, recommending such systems and providing training in utilization of such systems; and

(3) planning, directing, conducting or supervising such services.

(d) "Speech-language pathologist" means a person who engages in the practice of speech-language pathology and who meets the qualifications set forth in this act.

(e) "Audiology" means the application of principles, methods and procedures related to hearing and the disorders of hearing and to related language and speech disorders. Disorders include any and all conditions, whether of organic or nonorganic origin, peripheral or central, that impede the normal process of human communication including, but not limited to, disorders of auditory sensitivity, acuity function or processing. Audiology does not mean diagnosis or treatment of medical conditions as defined by K.S.A. 65-2869 and amendments thereto.

(f) "Practice of audiology" means:

(1) Rendering or offering to render to individuals or groups of individuals who have or are suspected of having disorders of hearing, any service in audiology, including prevention, identification, evaluation, consultation and habilitation or rehabilitation (other than hearing aid or other assistive listening device dispensing);

(2) participating in hearing conservation;

(3) providing auditory training and speech reading;

(4) conducting tests of vestibular function;

(5) evaluating tinnitus; and

(6) planning, directing, conducting or supervising services.

(g) "Audiologist" means any person who engages in the practice of audiology and who meets the qualifications set forth in this act.

(h) "Speech-language pathology assistant" means an individual who meets minimum qualifications established by the secretary which are less than those established by this act as necessary for licensing as a speech-language pathologist; does not act independently; and works under the direction and supervision of a speech-language pathologist licensed under this act.

(i) "Audiology assistant" means an individual who meets minimum qualifications established by the secretary, which are less than those established by this act as necessary for licensing as an audiologist; does not act independently; and works under the direction and supervision of an audiologist licensed under this act.

(j) "Sponsor" means entities approved by the department of health and environment to provide continuing education programs or courses on an ongoing basis under this act and in accordance with any rules and regulations promulgated by the department in accordance with this act.

Sec. 2. K.S.A. 65-6512 is hereby amended to read as follows: 65-6512.  
Fees. The secretary shall fix by rules and regulations the licensure fee, sponsorship, temporary licensure fee, renewal fee, late renewal fee, reinstatement fee, and examination fee, if necessary, under this act. Such fees shall be fixed in an amount to cover the costs of administering the provisions of the act. The secretary shall remit all monies received from fees, charges or penalties under this act to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount

thereof in the state treasury and credit the same to the state general fund.

Sec. 3. K.S.A. 65-6501 and 65-6512 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas Register.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

BILL BRIEF

TITLE: Kansas Licensed Speech-Language Pathologists and Audiologist Long-term Sponsorships and Quality Improvement

I. Purpose/Reason for Proposed Legislation

Allow for long-term sponsorship for continuing education for department licensed health occupations. This proposal supports the department mission of optimizing the promotion and protection of Kansans through increased efficiency and effectiveness in regulating provisions for sponsorship; it will aid the unit's ability to insure that required continuing education is available to licensed health care professionals in an efficient and effective manner. Continuing education is considered to be necessary for the ongoing training of health care professionals, in order that the highest quality health care is provided to consumers. Public health leadership strengthening the Kansas Division of Health/local health departments' system and assurance of essential services are strategic directions for the Division of Health, of which continuing education and up-to-date training are essential.

II. Bill Summary

Adds language to two sections of law: (1) defines "sponsor"; (2) adds "sponsorship" to fees section. This affects the following sections of the law: KSA 65-6501(j) and KSA 65-6512.

III. Legislative History

Statutory change has been contemplated over the past two years. This concept is widely accepted in other licensure programs.

IV. Anticipated Outcomes Resulting from the Passage of Proposed Legislation

The outcome will allow a reduction in paperwork which is of minimal technical nature but quantitatively high. In addition, there would be a reduction in approval processing time for sponsors. A program will be in place for voluntary participation in long-term approval of continuing education programs within the acceptable performance parameters. Fees generated from this program should be returned to the unit to enhance quality improvement activities.

V. Impact on Other Agencies or KDHE Bureaus

Reduction in this activity will liberate professional staff to place



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

FISCAL NOTE WORKSHEET

Bill No: (Bill Brief for KSA 65-6501 & 65-6512)

Detailed Computation of Expenditures to Implement Bill:

	FY 1998	FY 1999	FY 2000
Salaries and Wages By Classifications	0	0	0
Contractual Services (list items)			
Commodities (list items)			
Communications	1,250	1,250	1,250
Printing & Advertising	750	750	750
Travel	2,000	2,000	2,000
Professional services/fees	500	500	500
Capital Outlay (list items)			
Aid to Local Units of Government			
TOTAL EXPENDITURES	4,500	4,500	4,500

Detailed Computation of Revenue Impact (increase or decrease) Created by the Bill and the Funds Affected:

Annualized Income: \$150 (LTS fee) x 30 (LTS entities) = \$4,500

HOC Income:

<u>FY 1998</u>	<u>FY 1999</u>	<u>FY 2000</u>
\$4,500	\$4,500	\$4,500

Other KDHE Organizational Units Affected by the Bill:

None

greater emphasis on evaluation and technical assistance toward quality improvement in continued education and competency for licensees. It is generally supported by affected boards, advisory groups and task forces as well as target constituents (professional associations, technical/vocational schools, universities, professional consultant groups).

VI. Fiscal Impact

Costs to implement the sponsorship program are minimal (<\$250), consisting of revised application forms, informational notices, and telephone communications to explain the program to potential sponsors. The additional fee income would support a shift from education program approval to enhanced statewide education program quality improvement activities. There are no salary or wage implications. The fees and costs were not included in the 1998 budget.

Fees are anticipated to be \$150 paid biennially by the approved long-term sponsor (LTS). Estimated peak participation is about 60 LTS or 30 approved per year resulting in fees of about \$4,500 annually.

October 21, 1996

\_\_\_\_\_ BILL NUMBER \_\_\_\_\_  
BY: \_\_\_\_\_

An act concerning department of health and environment; adult care home administrator continuing education sponsorships and quality improvement; amending K.S.A. 1995 Supp. 65-3501 and 65-3503 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1995 Supp. 65-3501 is hereby amended to read as follows: 65-3501. Definitions. As used in this act, or the act of which this section is amendatory, the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) "Adult care home" means nursing facility, nursing facilities for mental health, intermediate care facilities for the mentally retarded, assisted living facility licensed for more than 60 residents, and residential health care facility licensed for more than 60 residents as defined by K.S.A. 39-923 and amendments thereto or by the rules and regulations of the licensing agency adopted pursuant to such section for which a license is required under article 9 of chapter 39 of the Kansas Statutes Annotated, or acts amendatory thereof or supplemental thereto, except that the term "adult care home" shall not include a facility that is operated exclusively for the care and treatment of the mentally retarded and is licensed for 16 or fewer beds.

(b) "Board" means the board of adult care home administrators established by K.S.A. 65-3506 and amendments thereto.

(c) "Administrator" means the individual directly responsible for planning, organizing, directing and controlling the operation of an adult care

home.

(d) "Person" means an individual and does not include the term firm, corporation, association, partnership, institution, public body, joint stock association or any group of individuals.

(e) "Sponsor" means entities approved by the board to provide continuing education programs or courses on an ongoing basis under this act and in accordance with any rules and regulations promulgated by the board in accordance with this act.

Sec. 2. K.S.A. 1995 Supp. 65-3503 is hereby amended to read as follows:  
65-3503. Duties of board of adult care home administrators; criminal history record information. (a) It shall be the duty of the board to:

(1) Develop, impose and enforce standards which shall be met by individuals in order to receive a license as an adult care home administrator, which standards shall be designed to ensure that adult care home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as adult care home administrators;

(2) develop examinations and investigations for determining whether an individual meets such standards;

(3) issue licenses to individuals who meet such standards, and revoke or suspend licenses issued by the board or reprimand, censure or otherwise discipline a person holding any such license as provided under K.S.A. 65-3508 and amendments thereto;

(4) establish and carry out procedures designed to ensure that individuals licensed as adult care home administrators comply with the requirements of such standards; and

(5) receive, investigate and take appropriate action under K.S.A. 65-3505

and amendments thereto and rules and regulations adopted by the board with respect to any change or complaint filed with the board to the effect that any person licensed as an adult care home administrator may be subject to disciplinary action under K.S.A. 65-3505 and 65-3508 and amendments thereto.

(b) The board shall also have the power to make rules and regulations, not inconsistent with law, as may be necessary for the proper performance of its duties, and to have subpoenas issued pursuant to K.S.A. 60-245 and amendments thereto in the board's exercise of its power and to take such other actions as may be necessary to enable the state to meet the requirements set forth in section 1908 of the social security act, the federal rules and regulations promulgated thereunder and other pertinent federal authority.

(c) The board shall fix by rules and regulations the licensure fee, temporary license fee, renewal fee, late renewal fee, reinstatement fee, reciprocity and sponsorship fee and, if necessary, an examination fee under this act. Such fees shall be fixed in an amount to cover the costs of administering the provisions of the act. No fee shall be more than \$200. The secretary of health and environment shall remit all moneys received from fees, charges or penalties under this act to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the state general fund.

(d) The board upon request shall receive from the Kansas bureau of investigation, without charge, such criminal history record information relating to criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board.

Sec. 3. K.S.A. 1995 Supp. 65-3501 and 65-3503 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its

publication in the Kansas Register.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

BILL BRIEF

TITLE: Adult Care Home Administrator Continuing Education Sponsorships and  
Quality Improvement

I. Purpose/Reason for Proposed Legislation

Allow for long-term sponsorship for continuing education for department licensed health occupations. This proposal supports the department mission of optimizing the promotion and protection of Kansans through increased efficiency and effectiveness in regulating provisions for sponsorship; it will aid the unit's ability to insure that required continuing education is available to licensed health care professionals in an efficient and effective manner. Continuing education is considered to be necessary for the ongoing training of health care professionals, in order that the highest quality health care is provided to consumers.

II. Bill Summary

Adds language to two sections of law: (1) defines "sponsor"; (2) adds "sponsorship" to fees section. This affects the following sections of the law: K.S.A. 1995 Supp. 65-3501 (e) and K.S.A. 1995 Supp. 65-3503 (c).

III. Legislative History

Statutory change has been contemplated over the past two years. This concept is widely accepted in other licensure programs.

IV. Anticipated Outcomes Resulting from the Passage of Proposed Legislation

The outcome will allow a reduction in paperwork which is of minimal technical nature but quantitatively high. In addition, there would be a reduction in approval processing time for sponsors. A program will be in place for voluntary participation in long-term approval of continuing education programs within the acceptable performance parameters. Fees generated from this program should be returned to the unit to enhance quality improvement activities.

V. Impact on Other Agencies or KDHE Bureaus

Reduction in this activity will liberate professional staff to place greater emphasis on evaluation and technical assistance toward quality improvement in continued education and competency for licensees. It is generally supported by affected boards, advisory groups and task forces as well as target constituents (professional associations, technical or

vocational schools, universities, professional consultant groups).

VI. Fiscal Impact

Costs to implement the sponsorship program are minimal (<\$250), consisting of revised application forms, informational notices, and telephone communications to explain the program to potential sponsors. The additional fee income would support a shift from education program approval to enhanced statewide education program quality improvement activities. There are no salary or wage implications. The fees and costs were not included in the 1998 budget.

Fees are anticipated to be \$150 paid biennially by the approved long-term sponsor (LTS). Estimated peak participation is about 60 LTS or 30 approved per year resulting in fees of about \$4,500 annually.



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

FISCAL NOTE WORKSHEET

Bill No: (Bill Brief for KSA 65-3501)

Detailed Computation of Expenditures to Implement Bill:

	FY 1998	FY 1999	FY 2000
Salaries and Wages By Classifications	0	0	0
Contractual Services (list items)			
Commodities (list items)			
Communications	1,250	1,250	1,250
Printing & Advertising	750	750	750
Travel	2,000	2,000	2,000
Professional services/fees	500	500	500
Capital Outlay (list items)			
Aid to Local Units of Government			
<b>TOTAL EXPENDITURES</b>	<b>4,500</b>	<b>4,500</b>	<b>4,500</b>

Detailed Computation of Revenue Impact (increase or decrease) Created by the Bill and the Funds Affected:

Annualized Income: \$150 (LTS fee) x 30 (LTS entities) = \$4,500

HOC Income:

<u>FY 1998</u>	<u>FY 1999</u>	<u>FY 2000</u>
\$4,500	\$4,500	\$4,500

Other KDHE Organizational Units Affected by the Bill:

None

October 16, 1996

BY: \_\_\_\_\_  
BILL NUMBER \_\_\_\_\_

An act concerning department of health and environment; licensed dietitian continuing education sponsorship and quality improvement; amending K.S.A. 65-5902 and K.S.A. 1995 Supp. 65-5913 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-5902 is hereby amended to read as follows: 65-5902. Definitions. For the purposes of this act:

(a) "Secretary" means the secretary of health and environment.  
(b) "Department" means the department of health and environment.  
(c) "Licensed dietitian" means a person licensed under this act.  
(d) "Dietetics practice" means the integration and application of principles derived from the sciences of nutrition, biochemistry, food, physiology, management and behavioral and social sciences to achieve and maintain the health of people through:

(1) Assessing the nutritional needs of clients;  
(2) establishing priorities, goals and objectives that meet nutritional needs of clients; and

(3) advising and assisting individuals or groups on appropriate nutritional intake by integrating information from a nutritional assessment with information on food and other sources of nutrients and meal preparation.

(e) "Nutritional assessment" means the evaluation of the nutritional needs of clients based upon appropriate biochemical, anthropometric, physical and

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dietary data to determine nutrient needs and recommend appropriate nutritional intake including enteral and parenteral nutrition.

(f) "Dietitian" means a person engaged in dietetics practice.

(g) "Sponsor" means entities approved by the department of health and environment to provide continuing education programs or courses on an ongoing basis under this act and in accordance with any rules and regulations promulgated by the department in accordance with this act.

Sec. 2. K.S.A. 1995 Supp. 65-5913 is hereby amended to read as follows:  
65-5913. Fees. The secretary shall fix by rules and regulations fees for applications for and renewal of licenses, temporary licenses, examination fees, late renewal fees, and reinstatement and sponsorship fees under this act. Such fees shall be fixed in an amount to cover the costs of administering the provisions of this act. The secretary shall remit all moneys received from fees, charges or penalties under this act to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the state general fund.

Sec. 3. K.S.A. 65-5902 and K.S.A. 1995 Supp. 65-5913 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas Register.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

BILL BRIEF

TITLE: Kansas Licensed Dietitian Continuing Education Sponsorships and  
Quality Improvement

I. Purpose/Reason for Proposed Legislation

Allow for long-term sponsorship for continuing education for department licensed health occupations. This proposal supports the department mission of optimizing the promotion and protection of Kansans through increased efficiency and effectiveness in regulating provisions for sponsorship; it will aid the unit's ability to insure that required continuing education is available to licensed health care professionals in an efficient and effective manner. Continuing education is considered to be necessary for the ongoing training of health care professionals, in order that the highest quality health care is provided to consumers and fits with the division's goals and objectives for public health.

II. Bill Summary

Adds language to two sections of law: (1) defines "sponsor"; (2) adds "sponsorship" to fees section. This affects the following section of the law: K.S.A. 65-5902 (g) and K.S.A. 1995 Supp. 65-5913.

III. Legislative History

Statutory change has been contemplated over the past two years. This concept is widely accepted in other licensure programs.

IV. Anticipated Outcomes Resulting from the Passage of Proposed Legislation

The outcome will allow a reduction in paperwork which is of minimal technical nature but quantitatively high. In addition, there would be a reduction in approval processing time for sponsors. A program will be in place for voluntary participation in long-term approval of continuing education programs within the acceptable performance parameters. Fees generated from this program should be returned to the unit to enhance quality improvement activities.

V. Impact on Other Agencies or KDHE Bureaus

Reduction in this activity will liberate professional staff to place greater emphasis on evaluation and technical assistance toward quality improvement in continued education and competency for licensees. It is generally supported by affected boards, advisory groups and task forces as

well as target constituents (professional associations, technical/vocational schools, universities, professional consultant groups).

VI. Fiscal Impact

Costs to implement the sponsorship program are minimal (<\$250), consisting of revised application forms, informational notices, and telephone communications to explain the program to potential sponsors. The additional fee income would support a shift from education program approval to enhanced statewide education program quality improvement activities. There are no salary or wage implications. The fees and costs were not included in the 1998 budget.

Fees are anticipated to be \$150 paid biennially by the approved long-term sponsor (LTS). Estimated peak participation is about 60 LTS or 30 approved per year resulting in fees of about \$4,500 annually.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

FISCAL NOTE WORKSHEET

Bill No: (Bill Brief for KSA 65-5902 & KSA 1995 Supp. 65-5913)

Detailed Computation of Expenditures to Implement Bill:

	FY 1998	FY 1999	FY 2000
Salaries and Wages	0	0	
0			
By Classifications			
Contractual Services (list items)			
Commodities (list items)			
Communications	1,250	1,250	1,250
Printing & Advertising	750	750	750
Travel	2,000	2,000	2,000
Professional services/fees	500	500	500
Capital Outlay (list items)			
Aid to Local Units of Government			
TOTAL EXPENDITURES	4,500	4,500	4,500

Detailed Computation of Revenue Impact (increase or decrease) Created by the Bill and the Funds Affected:

Annualized Income: \$150 (LTS fee) x 30 (LTS entities) = \$4,500

HOC Income:

<u>FY 1998</u>	<u>FY 1999</u>	<u>FY 2000</u>
\$4,500	\$4,500	\$4,500

Other KDHE Organizational Units Affected by the Bill:

None

October 15, 1996

\_\_\_\_ Bill No. \_\_\_\_

BY: \_\_\_\_\_

AN ACT repealing K.S.A. 65-461, 65-462, 65-463, 65-464, 65-464, 65-465, 65-466 and 65-467; concerning the certification of facilities providing services and care for post-acute trauma head-injured persons.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-461, 65-462, 65-463, 65-464, 65-464, 65-465, 65-466 and 65-467 are hereby repealed.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

BILL BRIEF

TITLE: Repeal of K.S.A. 65-461 et seq.  
Post-acute trauma head-injured persons

I. Purpose/Reason for Proposed Legislation

The proposed bill would repeal the provisions of K.S.A. 65-461 through K.S.A. 65-467 which became effective in 1985. These statutes provided the KDHE Secretary with authority to develop rules and regulations for the certification of facilities providing services, care and residential accommodations for post-acute trauma head-injured persons.

II. Bill Summary

The bill would officially repeal the referenced statutes.

III. Legislative History

The original statutes provided KDHE with the authority to develop regulations, inspect facilities, and grant certification to facilities designed specifically for the care of post-acute trauma head-injured persons. The facilities were to constitute a "demonstration program to determine the feasibility and effectiveness of this type of facility." Although regulations were developed, no facilities applied for certification. K.S.A. 65-467 made provision for the act to "sunset" on July 1, 1987.

IV. Anticipated Outcomes Resulting from Passage of Proposed Legislation

Since the statutes have not been in effect since 1987, there would be no significant outcome related to passage of this legislation. The legislation would simply remove the referenced laws from the statute books.

V. Impact on Other Agencies or KDHE Bureaus

There would be no significant impact on other state agencies or KDHE bureaus as a result of bill passage.

VI. Fiscal Impact

There would be no fiscal impact related to passage of this bill.





KANSAS ASSOCIATION OF HOMES AND SERVICES FOR THE AGING

### TESTIMONY

TO: Representative Carlos Mayans, Chair, and Members of the House Health and Human Services Committee  
FROM: John R. Grace, President/CEO  
RE: Kansas Nursing Home Quality - Past, Present, and Future  
DATE: January 30, 1997

Thank you Mr. Chairman and Members of the Committee. On behalf of our membership, I appreciate this opportunity to contribute to the discussion that has been going on about Kansas nursing homes, and to address some of the questions and concerns expressed by Committee members.

The Kansas Association of Homes and Services for the Aging was founded in 1953, and is a not-for-profit organization which represents over 150 long term health care, housing, and community service providers across the state. All of our members are Internal Revenue Service 501 © non-profit corporations **sponsored by churches, governmental bodies, fraternal groups, or community groups.**

KAHSA members provide health, housing and social services for over 15,000 older persons and their families throughout Kansas. Some of our member facilities have completed 100 years of service for the elderly in their communities, and many more have been providing care for decades.

Our mission is to provide services to our members that will enhance the quality of life of the elderly Kansans we serve. We firmly believe that it is our job to help our members in not only preventing incidents of poor care, but creating outstanding programs for residents.

We also believe that we can not always look to government to solve our problems, but must work to develop more self monitoring, discipline, and correction in cooperation with regulators, consumers, and others to achieve our common goals.

We provide four main services to our membership:

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- Education, training & research.
- Information & publications.
- Group Purchasing for cost containment.
- Advocacy on behalf of the residents we serve.

Our goal of advocacy is to influence the development of public policy that will enable our membership to provide the highest quality of care and services in the most cost effective and efficient manner.

### **Who Governs our Homes?**

Each of our homes is governed by a local Board of Directors or local advisory group. These Board members are nurses, ministers, attorneys, bankers, homemakers, family members who meet on a regular basis to provide input and advice and serve as guardian of the residents served by the organization. Board members have a legal and moral responsibility to review the services provided by the facility and ensure that the health, welfare and safety needs of the residents are met by those services.

### **Advances in Quality Improvements**

We believe that numerous steps have been taken in recent years to improve and assure the quality of care for Kansas nursing home residents.

#### **Nursing Home Reform Act of 1987**

Major changes were made by this federal law, some of which are:

- Increased requirements for licensed staff (RN and LPN)
- Minimum Data Set (MDS) - Improved system for assessment of resident needs
- Individualized care planning that focuses on the unique needs of each resident
- Kansas “training” for Certified Nurses Aides is 90 hours, federal law is 60 hours

#### **Kansas Requires Staffing Standard above Federal Standard**

Kansas has minimum staffing requirements which are not a part of the federal guidelines. According to 1995 H&E report the average weekly direct care giver staffing across the state is 42% higher than these minimum requirements. Among KAHSA members, (not-for-profit homes,) the average is 53% higher than the minimum requirement.

#### **Administrator Requirements Increased**

Several years ago requirements for nursing home administrators licensure were significantly increased, elevating the level of expertise and accountability within the profession.

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## **Federal Survey & Enforcement Rule of July 1995**

In addition to existing state enforcement actions, the Federal Government now provides the following remedies to Health and Environment and SRS to utilize when a facility is out of compliance:

- Directed plan of correction
- Directed in-service training for staff
- State monitoring
- Denial of payment for new admissions
- Denial of all payments
- Civil money penalty up to \$10,000 per day with no maximum
- Temporary Management
- Closure

### **Example: Restraint Usage has Decreased by 90% (Federal Reg. attached)**

In the last seven years there has been a 90% decrease in the percentage of nursing home residents who are physically restrained during any portion of the day.

### **Current monitoring of nursing homes**

This Committee has focused on the role of the Kansas Department of Health and Environment in assuring quality care in nursing homes. However, KDHE does not stand alone in this role. There are multiple internal and external mechanisms to provide oversight and input into the quality of care delivered in Kansas nursing homes.

- **State Long Term Care Ombudsman** advocates for residents and mediates disputes or disagreements between resident, family, and facility.
- **Facility Internal quality assurance committee**, consisting of the medical director, the director of nursing and three other staff, which identifies problem areas, recommending changes for improvement, and tracking progress.
- **Resident councils**, and in some cases **family councils**, meet routinely and recommend areas for improvement to the administrator.
- **Family members, friends, pastors, and other community members** are routinely in and out of a nursing facility every day, observing treatment of residents, and reporting observations and concerns to staff. When real concerns arise these individuals can and do report those concerns to nursing supervisors, the administrator, or to KDHE or the Long term Care Ombudsman.
- **Licensed Professionals** are accountable for their own practice. This would include certified nurse aides, certified medication aides, RNs, LPNs, physicians, social workers, therapists, and nursing home administrators. Problems with individual practice that are identified by nursing facility staff, state survey agency, concerned

citizen, or another health care professional can and are reported to the appropriate Board or agency.

**What can KAHSA do to Enhance Quality and Assure Compliance with Regulations?**

- **Encourage Membership use of Quality Indicators:** Quality Indicators are measurements designed to help providers objectively analyze and improve quality of care using the data they are already required to collect from the MDS. (See attachment.)
- **KAHSA Publishes Best Practices, Awards, Recognitions:** KAHSA identifies and shares best practices of facilities. We also have an awards program to recognize and honor those facilities and staff. (See attachment.) KDHE has had an Exemplary Care Award Program since 1991. Not-for-profit homes have received 67 % of these awards.
- **KAHSA Members can pursue Private Accreditation:** AAHSA has developed an accreditation program for Continuing Care Retirement Communities. Future initiatives aimed at improving quality of care could include private accreditation in lieu of state or federal survey.
- **KAHSA Members can provide more Consumer Education:** There are numerous resources to assist consumers in selecting nursing home suited to their needs and preferences. KAHSA can increase efforts to provide elders and their families with information to assist them in this selection process.
- **KAHSA along with others can review and examine survey and enforcement process for “chronic poor performers”:** The Legislative Post Audit found that 90% of the complaints were categorized properly. However, there were some concerns expressed about the “chronic poor performers.” There may be predictors of poor care, such as frequent change of ownership, low staffing levels, change of administration, that could be identified and used to monitor those facilities more closely and prevent poor care from actually occurring.

To continue to improve care in nursing homes across the state we believe the best approach is deep thinking versus quick fixes, and collaborative efforts at the community level as well as on the part of governmental, legislative, consumer, and nursing home provider representatives. One example of this approach is the Kansas Partnering Group. This group, which includes representatives from KDHE, SRS, KDOA, the regional HCFA office, consumer advocacy, and provider and professional associations, has met on a regular basis since 1995 with the goal of “improved quality of care for residents, positive outcomes, and quality assurance.” Also the Adult Care Home Advisory Group,

which is made up of these same individuals, meets regularly to focus on the roles and responsibilities of Health and Environment in nursing home inspections, survey, and quality initiatives.

- **KAHSA Monitoring and Assisting Membership:** We are beginning to develop more services to help identify problems in our homes that could lead to poor care and then providing assistance to those facilities to assist them in improving their program of care.

### **Conclusion**

Mr. Chairman and Members of the Committee, we abhor any incident of poor care and find it unacceptable. Preventing any incident of poor care will always be our goal and mission. To do this will require the resources, energies, and talents of all parties, including regulators, consumers, and providers. Together, workable solutions for the long term can be implemented in order to enhance and insure quality long term care services for our elderly citizens.

State of Kansas

Bill Graves



Governor

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**Department of Health and Environment**

James J. O'Connell, Secretary

Testimony presented by request to

House Health and Human Services Committee

by

The Kansas Department of Health and Environment

Overview of the Agency's Administrative Appeals Process

The Kansas Department of Health and Environment's (KDHE) Administrative Appeals Section (AAS) was formed on July 1, 1993, to conduct all agency hearings required by the Kansas Administrative Procedure Act (KAPA), KSA 77-501, et seq. The AAS consists of 1.6 FTE attorney/presiding officers and 1 FTE coordinator of administrative appeals. AAS staff offices and a hearing room are located in the Mills Building.

The Appeals Process

Most administrative appeals are received from agency licensees or other persons or businesses regulated by KDHE. Appeals are filed with the agency on forms provided by the agency or letters prepared by appellants or their attorneys. The majority of appeals are taken from administrative notices of proposed adverse actions recommended to the Secretary by program staff. Those actions usually consist of a civil fine, the temporary suspension of a license, or the revocation of a license.

Once an appeal is received by the agency, it is docketed by AAS staff, assigned to a presiding officer, and scheduled for a prehearing conference. Prehearing conferences are held in all cases to explain the hearing process, establish deadlines for exchanging documents and witness lists, simplify issues, and schedule a date for the hearing. Most prehearing conferences are scheduled within 30 days of receiving an appeal. Most hearings are held within 90 days of receiving an appeal. Presiding officers have 30 days after a hearing to issue their "initial order."

Initial orders issued by presiding officers may be appealed to the Secretary by either private appellants or agency program staff. In addition, the Secretary may review an initial order without appeal from one of the parties. If an initial order is reviewed by the Secretary, parties are given

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the opportunity to file briefs but new testimony is usually not allowed. The Secretary may modify a presiding officer's initial order for any reason. The Secretary does not need to specify error by the presiding officer to modify an initial order. However, the Secretary must make his own findings of fact and conclusions of law if an initial order is modified.

If a private appellant disagrees with the Secretary's "final order," an action for judicial review may be filed in district court. In most cases, a private appellant must take advantage of every opportunity for relief from the agency before asking a court to review a case.

### Appeals before KDHE

The AAS distributes a docket of pending appeals every month. The docket not only shows what cases are pending before the agency, but also the stage where each case is at in the appeals process.

As of January 8, 1997, there were 79 administrative appeals pending before the agency, 61 health cases and 18 environment cases. Of the 61 health appeals, 13 involved allegations of resident neglect/abuse by certified nurse aides working at adult care homes, 15 involved actions taken against adult care homes or adult care home administrators, and 23 involved actions taken against child care facilities. The remaining health appeals involved food service establishments.

### Primary concerns for an administrative appeals section-

Two of the most important concerns for an administrative appeals section are ensuring that presiding officers are free from administrative pressure in deciding cases and that private appellants are able to understand the hearing process. In pursuance of these goals, KDHE has established a completely separate and distinct appeals section whose staff have no other responsibilities within the agency. The AAS is located in a distinct suite and the hearing room is assigned exclusively to the appeals section. Presiding officers contact parties only when both are available to participate in discussions, or when one of the parties has waived an appearance (usually in response to settlement negotiations then pending between the parties).

To assist appellants in understanding the hearing process, presiding officers discuss procedural issues with the parties during the prehearing conference and issue written prehearing orders following the completion of those conferences. In addition, the AAS publishes an "Administrative Appeals Section Operations Manual" which is available to private appellants and their attorneys.

Testimony presented by:

William C. Rein  
Director and Chief Presiding Officer  
Administrative Appeals Section  
January 30, 1997